S.B. Civil Misc. Appeal No. 34/1994

State of Rajasthan

Vs.

M/s Vishram Jetha & Sons

Date of order : 11.9.2006

HON'BLE MR. PRAKASH TATIA, J.

Mr. Narendra Moolchandani,Deputy Government Advocate, for the appellant

Mr. Suresh Shrimali, for the respondent/s

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Heard learned counsel for the parties.

This appeal is against the order of the learned Additional District Judge No.1, Udaipur dated 13.8.1993 passed in Civil Misc. Case No. 74/1980. By said order civil court made the award passed by the learned Arbitrator dated 31.3.1992 rule of the court. The learned arbitrator after accepting 11 claims of the contractor out of total 36 claims passed the award in favour of the respondent contractor for Rs.3,00,071/- only. The respondent submitted cross-objection claiming interest @ 18% from the year 1976 in place of interest @ 9% p.a.

According to the learned counsel for the appellant, the learned arbitrator wrongly passed the award and the civil court has committed error of law in dismissing the

appellant's objection filed under Section 30 and 33 of the Arbitration Act. According to the learned counsel for the appellant, the learned arbitrator passed the award in violation to the condition of the contract given in Clause 4 (1) to Clause 4.03. It is also submitted that the learned arbitrator travelled outside the term of the contract and therefore, also the award deserves to be set-aside.

Learned counsel for the respondent vehemently submitted that the learned arbitrator gave opportunity to both the parties and there were about 24 meetings before the award was passed. The learned arbitrator passed the detailed reasoned award. The learned arbitrator considered all the material placed before him and thereafter specifically considered the conditions of the agreement given in clause 4(1) as well as 4.03 and thereafter passed the award in favour of the respondent. There is no factual or legal error in the impugned award. It is also submitted that even if there is some error in the award even then the jurisdiction under Section 30 and 33 of the Arbitration Act is very limited for the civil court to interfere in the award. According to the learned counsel for the respondent, the entire record is before this Court and this Court may also look-into the documents which will justify the award in favour of the respondent.

I considered the submission of the learned counsel for the parties and perused the record and reasons given by the learned Arbitrator and by the court below in award and the

order of the civil court.

At the out-set, it may be observed that the respondent submitted objection petition before the civil court raising all those disputes which are on merit of the claim as well as about the appellant's legal interpretation about the clauses of the agreement which have been considered by the learned arbitrator.

I do not find any of the ground of the objection petition which can be said to be falling within any of the ground available under Sections 30 and 33 of the Arbitration Act to challenge the award.

Be that as it may, it appears from the detailed award that the learned Arbitrator considered all the claims separately and gave detailed reason for allowing the claim of the claimants under various heads. The civil court also considered the award in detail in its detailed order dated 13.8.1993. The civil court was fully justified in observing that the award passed by the arbitrator cannot be interfered unless a ground is made out under Section 30 of the Arbitration Act.

In view of the above I do not find any merit of the appeal, hence the appeal of the appellant is dismissed.

So far as counter claim is concerned, the claim of the appellant for interest @ 18% cannot be justified by imagine

of justification and therefore, cannot be interference by this Court.

Hence, the appeal and cross-objection both are dismissed.

(PRAKASH TATIA), J.

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